IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTMPT PETITION NO. 163 OF 2000

Smt.Sylvina M. Carvalho..... ... .Petitioners

V/s

SatishKaple, Executive Engineer, Maharashtra State Electricity Board & Ors..... .... Respondents.

Mr.Rajesh Datar, Adv. for the petitioner.

Mr.K.S.Dewal , Adv. For respondent No.1.

CORAM: A.P. DESHPANDE, J.
9.4.2007

ORAL JUDGMENT:

This contempt petition is filed against the Executive Engineer of Maharashtra State Electricity Board by contending that willfully and deliberately the respondent No.1 has committed breach of the order passed by this Court on 15.9.1999 in Civil Revision Application No.1062/99. Brief facts that are necessary to adjudicate the disputes are set out herein below.

2. The petitioner claims to have taken on lease a plot of land bearing S.No.163, Hissa No.1 from M/s.Provident Investment Company Limited which is a Madhya Pradesh Government undertaking. The period of lease was 50 years. The petitioner had sub-let part of the said property admeasuring 24 x

20 feet in favour of respondent No.2. Respondent No.2 appears to have executed a development agreement in favour of respondent No.3 who proceeded to demolish the construction and erected a new construction. Claiming the said newly erected construction as unauthorized the petitioner filed suit being Regular Civil Suit No.466/95 in the Court of learned Civil Judge, Junior Division against respondent No.1-Board for declaration and injunction seeking to restrain it from making available electric supply to the newly erected building. Initially trial Court passed an order of status quo but later proceeded to vacate the order and aggrieved thereby the petitioner filed revision in this Court. In the said revision by an ex-parte ad-interim order dated 15.9.99 the respondent No.1 was restrained from granting electricity supply and from installing meters in the building construction by respondent Nos. 2 and 3. The grievance made in this contempt petition is that willfully and deliberately respondent No.1 has committed breach of the order by releasing electric supply to the said new erected building and hence prayer is made to punish respondent No.1 for civil contempt.

3. The respondent No.1 has filed an affidavit on record stating that out of 28 flats 22 flats were given supply on30.7.1999 that is prior to the passing of the order and because of short-circuit at the end of February, 2000 all the meters were burnt and were un-serviceable. It is then stated in the affidavit that the officer of the Board replaced the meters by installing new in place of the burnt one on 7.3.2000. It is then stated that after the passing of the order by this Court inadvertently electric supply was released and the same was done mistakenly and hence has tendered unconditional apology for

unintentional mistake. Admitting that there has been disobedience of the order it is honestly pleaded that the same was not willful or deliberate. It is also admitted that the notice and the advocate's letter were misplaced. It is then stated that Civil Revision Application came to be dismissed by the High Court on 21.6.2000.

4. Perusal of the reply filed by respondent No.1 reveals that the 1st respondent admits the breach of the order and in all fairness points out that the breach was inadvertent and due to a mistake. Besides tendering unconditional apology for the inadvertent disobedience of the order, it is also pointed out that the revision has been dismissed. From the affidavit on record, I have no hesitation to conclude that the release of electricity supply by respondent No.1 to the newly constructed building of respondent No.2 was not willful and hence same does not constitute civil contempt. Be it as it may, respondent No.1 has expressed an apology for inadvertent breach of order committed by it. Hence absolutely no case is made out for taking any action for contempt against respondent No.1. In the result contempt petition fails and is dismissed. Rule stands discharged.